

Michael R. Carney  
MCKOOL SMITH, P.C.  
One Bryant Park, 47<sup>th</sup> Floor  
New York, New York 10036  
Telephone: (212) 402-9400  
Facsimile: (212) 402-9444  
Email: mcarney@mckoolsmith.com

Paul D. Moak  
MCKOOL SMITH, P.C.  
600 Travis Street, Suite 7000  
Houston, Texas 77002  
Telephone: (713) 485-7300  
Facsimile: (713) 485-7344  
Email: pmoak@mckoolsmith.com

-and-

Kenton W. Hambrick  
Associate General Counsel  
Freddie Mac, M/S202  
8200 Jones Branch Drive  
McLean, Virginia 22102  
Telephone: (703) 903-2473  
Facsimile: (703) 903-3692  
Email: kenton\_hambrick@freddiemac.com

*Attorneys for Federal Home Loan Mortgage Corporation*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----	)	
In re:	)	Case No. 12-12020 (MG)
	)	
RESIDENTIAL CAPITAL, LLC, <i>et al.</i> ,	)	Chapter 11
	)	
Debtors.	)	Jointly Administered
-----	)	

**FEDERAL HOME LOAN MORTGAGE CORPORATION'S STATEMENT AND  
RESERVATION OF RIGHTS WITH RESPECT TO THE PRE-AUCTION  
OBJECTIONS OF THE RMBS TRUSTEES TO THE DEBTORS' SALE MOTION**

---

Federal Home Loan Mortgage Corporation in conservatorship (“Freddie Mac”),<sup>1</sup> by and through its undersigned counsel, hereby files this statement and reservation of rights (the “Statement”) with respect to the *Pre-Auction Objections of the RMBS Trustees to the Debtors’ Sale Motion*, dated August 23, 2012 [Dkt No. 1242] (the “Pre-Auction Objections”) and the Debtors’ *Omnibus Reply to the RMBS Trustees’ Pre-Auction Objections to the Debtors’ Sale Motion*, dated October 9, 2012 [Dkt No. 1768].

In support of its Statement, Freddie Mac respectfully states as follows:

### **BACKGROUND**

1. On May 14, 2012, the Debtors filed their Sale Motion,<sup>2</sup> pursuant to which the Debtors propose to sell their servicing assets and assume and assign certain contracts. The Debtors’ Amended Sale Notice,<sup>3</sup> filed September 14, 2012, scheduled a hearing to approve the sale for November 19, 2012 (the “Sale Hearing”).

2. In connection with the Sale Motion, the Debtors also filed, on July 26, 2012, a *Notice of (i) Debtors’ Intent to Assume and Assign Certain Executory Contracts, Unexpired Leases of Personal Property, and Unexpired Leases of Nonresidential Real Property and (ii)*

---

<sup>1</sup> On September 6, 2008, the Director of the Federal Housing Finance Agency (the “FHFA”) placed Freddie Mac into conservatorship pursuant to express authority granted under the Housing and Economic Recovery Act of 2008 (“HERA”) to preserve and conserve Freddie Mac’s assets and property. This Statement does not constitute submission to this Court’s jurisdiction by the FHFA.

<sup>2</sup> See Motion Pursuant to 11 U.S.C. §§ 105, 363(b), (f), and (m), 365 and 1123, and Fed. R. Bankr. P. 2002, 6004, 6006, and 9014 For Order: (A)(I) Authorizing and Approving Sale Procedures, Including Break-Up Fee and Expense Reimbursement; (II) Scheduling Bid Deadline and Sale Hearing; (III) Approving Form and Manner of Notice Thereof; and (IV) Granting Related Relief and (B)(I) Authorizing the Sale of Certain Assets Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (II) Authorizing and Approving Asset Purchase Agreements Thereto; (III) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases Related Thereto; and (IV) Granting Related Relief [Dkt No. 61] (the “Sale Motion”).

<sup>3</sup> See Amended Notice of Public Auctions and Sale Hearing to Sell Certain of the Debtors’ Assets Pursuant to Asset Purchase Agreements with Nationstar Mortgage LLC and Berkshire Hathaway Inc. and Related Relief [Dkt No. 1446] (the “Amended Sale Notice”).

*Cure Amounts Related Thereto* [Dkt No. 924] (as supplemented and amended, the “Assignment and Cure Notice”).

3. Freddie Mac objected to the Debtors’ Assignment and Cure Notice by filing, on October 1, 2012, its *Objection to Debtors’ Proposed Assumption and Assignment of Certain Executory Contracts and Related Cure Amounts* [Dkt No. 1690] (the “Assignment Objection”). Freddie Mac’s Assignment Objection is set to be heard on November 19, 2012, at the Sale Hearing.<sup>4</sup>

4. On August 23, 2012, the RMBS Trustees filed their Pre-Auction Objections. The Debtors, on October 11, 2012, filed a *Notice of Hearing on the Pre-Auction Objections of the RMBS Trustees to the Debtors’ Sale Motion* [Dkt No. 1806], proposing to set a hearing on the Pre-Auction Objections for October 17, 2012.

### **STATEMENT**

5. Through its Assignment Objection, Freddie Mac has asserted several objections to the Debtors’ proposed assumption and assignment of Freddie Mac’s contracts to Nationstar (or any other purchaser). Although the scope of the RMBS Trustees’ Pre-Auction Objections is not entirely clear, it appears that the Trustees have raised objections that are similar to certain of Freddie Mac’s objections, including with regard to the scope of the servicing obligations to be assumed and assigned to Nationstar. Freddie Mac’s objections are not scheduled to be heard by the Court until the November 19 Sale Hearing.

6. If the Court’s consideration of the Pre-Auction Objections on October 17 could affect the resolution of Freddie Mac’s Assignment Objection, the Debtors have failed to provide adequate notice of hearing to Freddie Mac. Accordingly, Freddie Mac opposes the

---

<sup>4</sup> See Sale Procedures Order ¶ 27 [Dkt No. 538] (“If a Contract Objection cannot be consensually resolved, it shall be heard by the Court either at the Sale Hearing or such other date as determined by the Court . . .”).

consideration, on October 17, of any Pre-Auction Objections that could impact the resolution of Freddie Mac's Assignment Objection and requests that the Court defer consideration of the Trustees' objections until the November 19 Sale Hearing (or such other time as Freddie Mac's Assignment Objection is considered).

7. Freddie Mac also joins in and incorporates (to the extent not inconsistent with this Statement) the arguments set forth in *Syncora Guarantee Inc.'s Request for Clarification on October 17, 2012 Hearing and Reservation of Rights regarding Early Consideration of Objections to Treatment of Mortgage Servicing Contracts Pursuant to Debtors' Sale Motion*, filed October 16, 2012 [Dkt No. 1827].

8. Freddie Mac fully reserves its rights with respect to its Assignment Objection and any sale objections it may wish to raise in the future.

Dated: October 16, 2012

Respectfully submitted,

/s/ Michael R. Carney  
Michael R. Carney  
MCKOOL SMITH P.C.  
One Bryant Park, 47<sup>th</sup> Floor  
New York, New York 10036  
Telephone: (212) 402-9400  
Facsimile: (212) 402-9444  
E-mail: mcarney@mckoolsmith.com

Paul D. Moak  
MCKOOL SMITH P.C.  
600 Travis Street, Suite 7000  
Houston, Texas 77002  
Telephone: (713) 485-7300  
Facsimile: (713) 485-7344  
E-mail: pmoak@mckoolsmith.com

-and-

Kenton W. Hambrick,  
Federal Home Loan Mortgage Corporation  
8200 Jones Branch Drive - MS 202  
McLean, Virginia 22102  
Telephone: (703) 903-2640  
Facsimile: (703) 903-3691

*Attorneys for Federal Home Loan Mortgage  
Corporation*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 16th day of October, 2012, I electronically filed the foregoing pleading with the Clerk of Court by using the Case Management/Electronic Case Filing (“CM/ECF”) system which will send a notice of electronic filing, and I will complete service of the foregoing as required by Rule 5, Federal Rules of Civil Procedure, made applicable by Rule 7005, Federal Rules of Bankruptcy Procedure, to all parties indicated on the electronic filing receipt.

/s/ Michael R. Carney  
Michael R. Carney